

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, JUNE 20, 2007
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, June 20, 2007 at 4:30 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Ed Davis, Andy Dunn, Scott Seiber, and Helen Spann

Board Members Absent: Michael Jordan, Darren Jones, and Bill Whitaker

Also Present: Candace Dowdy, Peyton Mastera, Mike Pitman, David Roberts, Kristen Taylor, Mickee Bartee, Chong Kim, Steve Sanders, Nathan Nathu, Matt Mattingly, Teesa Lilly, John Gray, and Public Audience

In absence of Bill Whitaker, Acting Chair Helen Spann called the meeting to order at 4:30 p.m., and welcomed all guests and applicants.

Approval of minutes from the May 23, 2007 Regular Meeting: Andy Dunn made a motion to approve the minutes with the noted correction. Scott Seiber seconded the motion and it carried with a 4-0 voice vote.

Review of Conditional Use Permit – 1502 Sycamore Street – Chong Kim: Mr. Mastera stated that on December 20, 2006, Ms. Chong Kim of 1502 Sycamore Street was granted a Conditional Use Permit for a home occupation license to operate a seamstress business and an answering service for a permanent make-up business that is administered at offsite locations. One of the conditions of the permit was that it be reviewed in 6 months, which is why it is back before the BZA. Mr. Mastera stated that Ms. Kim has recently requested she be allowed a two square foot sign to be placed on the premises for visibility purposes. Mr. Mastera then noted that in the zoning ordinance under Conditional Use Permits, the Board can grant up to a two square foot sign on the premises. Mr. Mastera then referred to the previous motion from December that Chair Spann made noting that there was not to be a sign on the premises. *Previous motion from 12/20/2006: Helen Spann amended her motion to approve the conditional use permit to allow a seamstress shop and answering service for an off-site permanent makeup business at 1502 Sycamore Street under the following conditions: there is to be no sign advertising the business; Ms. Kim must comply with any permanent makeup regulations set forth by the city or state; conditional use permit is subject to review in six (6) months or if Planning Staff receives complaints prior to six (6) months. Mr. Seiber requested that, “customers must exit onto 15th Street”, as a part of the motion. Helen Spann included into her previous motion the condition that customers must exit onto 15th Street. Michael Jordan seconded the amended motion and it carried with a 4-0 vote*

Mr. Mastera stated that all adjoining property owners were notified of the review, as a courtesy. No calls, comments or letters have been received in the Planning Office since the Conditional

Use Permit was granted in December. Mr. Dunn then asked when the notification was sent out, and if it stated that Ms. Kim was trying to get approval for a sign. Mr. Mastera said no and that Mr. Kim's request came after letters were sent.

Ms. Dowdy stated that she had spoken to Ms. Kim by phone earlier and at that time she asked Ms. Kim if she had received any complaints or encountered any issues from traffic generated due to her business. Ms. Kim explained she has had no customers for the seamstress business since the Conditional Use Permit had been granted by the Board. Ms. Kim has advertised some in the newspaper, but it was quite expensive and she wants to see if the Board would reconsider the possibility of allowing her to have a two square foot sign for identification purposes. Ms. Dowdy referred to the PowerPoint Presentation showing the driveway on 15th Street where most of the availability for parking was and where customers are supposed to exit the premises.

Mr. Seiber stated that in the December meeting when the Conditional Use Permit was issued, the issue of the sign was discussed at some length; at the time, Ms. Kim said that she did not need one. Mr. Mastera referred to the past minutes and explained that Ms. Mary Ann Russell, an adjoining property owner, had submitted a document to the BZA stating, "The moment a business sign is displayed, the integrity of the residential area is adversely affected and the property value would be immediately reduced. The homes represent a major investment for the owners and they feel that their investments should not be compromised." Ms. Russell also "feared that more signs would come about if this particular business had a business sign." Mr. Mastera noted that Mr. Seiber had commented that "permits were handled on a case-by-case basis and evaluated on how the business would alter the neighborhood and in no way would it mean that other houses in the neighborhood would start having signs in their yards."

Chair Spann swore in Ms. Chong Kim of 1502 Sycamore Street and Ms. Mickie Bartee of 428 Shannon Creek Road, New Concord, KY 42076. Ms. Bartee, friend of Ms. Chong Kim, stated that since Ms. Kim had not had any business for 6 months, Ms. Kim would now like to ask permission to install a sign to advertise her business. Ms. Bartee read a list of items that she felt were responsible for Ms. Kim's permanent make-up business not being successful. Ms. Kim stated that she needed a sign for permanent make-up. Ms. Dowdy then stated that Ms. Kim's original Conditional Use Permit was not for the permanent make-up at that location, that it was actually for the seamstress business. Mr. Seiber stated that he also understood that the sign would be for the seamstress business and not for the permanent make-up business. Mr. Mastera agreed and noted that it would be an entirely separate Conditional Use Permit for a sign pertaining to the permanent make-up business. Ms. Kim again stated that she wanted the sign in her yard to advertise the permanent make-up. Chair Spann then asked Ms. Kim what the advantage was of a sign at her home for permanent make-up if she didn't do the make-up at her home. Ms. Kim said it would be there to let people know that they could make appointments. Mr. Seiber stated that he was not sure that this was the proper venue for advertising something that couldn't happen at that location and that there were other ways of advertising. Ms. Bartee mentioned that this was discussed in the meeting in December and no one seemed to think a small sign was a problem at that time. Chair Spann said that the impression was that the sign was going to be related to the seamstress business only. Ms. Bartee asked if Ms. Kim could put the permanent make-up sign with the seamstress sign. Chair Spann said that the size of the sign

was limited to two square feet and it would probably be too small. Mr. Dunn then asked if Ms. Kim had considered having a sign inside of her home for people that came to drop off or pick up the work that she had done as a seamstress. Mr. Seiber then added that Ms. Kim would probably do better in advertising for both of her businesses with a metal logo sign attached to her car than putting a sign in a residential area. Ms. Bartee said that Ms. Kim had some leaflets that she was going to pass out to the beauty schools, but stated that she felt that signs were still the best way of advertising.

Chair Spann explained if two businesses are being addressed at the said location instead of just the seamstress business, another application should be filed. Chair Spann then stated that there was only one business approved to be operational at the said location. Mr. Dunn stated that a sign being put in the yard was one of the major concerns of the neighbors. Chair Spann stated that she recalled the main concern for the residential business was the traffic on Sycamore. Mr. Seiber stated that he did not have a problem with a sign identifying the seamstress business, but does have a problem with a sign advertising a business that was not performed at that location.

Mr. Seiber asked Ms. Kim where the sign would be placed. Mr. Dunn asked if would go on 15th Street. Ms. Bartee said that at the last meeting it was decided that the sign would go in the yard. Mr. Mastera had Ms. Kim to point out a location on the PowerPoint Presentation. She pointed to the yard facing 15th Street. Mr. Seiber then asked what type of sign she was considering. Ms. Dowdy stated that the Planning Department would need to look at and approve the sign as far as what the sign said and the size of the sign before it was placed in the yard.

Scott Seiber made a motion to amend the Conditional Use Permit granted to Chong Kim at 1502 Sycamore Street to allow a two square foot sign for Ms. Kim to advertise her seamstress business to be located on the 15th Street side of her residence at a location that she has chosen provided that it meets all the requirements of the Planning Staff and that Conditional Use Permit be reviewed in six (6) months. Ed Davis seconded the motion and it carried with a 4-0 vote.

Dimensional Variance request for two additional wall signs - 1504 N. 12th Street – Holiday Inn Express: Ms. Dowdy pointed out the location of the Holiday Inn Express on PowerPoint. She stated that the Holiday Inn Express was applying for a dimensional variance request to add two additional wall signs, one on each side of the building (North and South sides). The Board had previously denied the addition of two additional signs in 2004. Since then the Board has reviewed the request from another hotel (Hampton Inn) based on similar reasons as this application to have additional wall signage. Mr. Dunn stated that he had previously voted no for this application and that he had changed his opinion. He stated when looking for a hotel, the signs were very helpful for identification purposes. Ms. Dowdy noted some of the findings from the Hampton Inn application.

Andy Dunn made a motion to approve the request for two (2) additional wall signs for the Holiday Inn Express, located at 1504 N. 12th Street, as it will make the business more identifiable to customers, it would improve the visibility of the consumer industry type business, it would be an asset to the traveling public to be able to locate the business and

that it will not adversely affect the public health, safety, or welfare, and will not alter the essential character of the general vicinity, and it will not cause a hazard or nuisance to the public, and it will not allow an unreasonable circumvention of the requirements of the zoning regulations. Scott Seiber seconded the motion and it carried with a 4-0 vote.

Public hearing to review the conditional use application to allow up to four (4) non-related persons to occupy the premises in an R-2 zone – 1626 Miller Street – Bob Bradley: Chair Spann stated that Mr. Bradley was unable to attend because of an emergency call out of town.

Scott Seiber made a motion to table this item. Ed Davis seconded the motion and it carried with a 4-0 voice vote.

Dimensional Variance request for additional wall signage -South Side Shopping Center – Larry and Tessa Lilly: Ms. Dowdy showed where The South Side Shopping Center, owned by Larry and Teesa Lilly, was located on PowerPoint. Ms. Lilly contacted Planning Staff and asked for assistance in designing signage that would be very uniform in appearance for their shopping center. The plan is to leave the small metal framing that currently exists and paint it a complimentary color. Ms. Lilly is asking for the Board to approve an overall variance for each one of her tenants with 12-inch plastic molded letters. In addition, she would like to have a small three square foot identification sign that would hang under the awning of each business. Ms. Lilly would like to place something in her leases for each tenant, mandating that any business that locates in her shopping center will be required to have the 12 inch molded plastic letters for their signage and that signage must be approved by Ms. Lilly as well as the Planning Department. Ms. Dowdy stated that these letters would actually be mounted directly to the drivet so when a business left, and took down their sign, there would only be a small screw hole left on the façade instead of a stained area. Mr. Dunn then asked about signage in the tenants windows.

Chair Spann swore in Ms. Teesa Lilly of 1803 Edgehill Trail, New Concord, KY 42049. Ms. Lilly stated that the uniformity of the letters and the pleasing ascetics for the shopping center was her goal. Ms. Lilly stated that she was looking for the Board to help her determine a size for the lettering which could be stipulated in her leases with her tenants. Mr. Davis suggested that the sign maker come up with a sketch for the Board to look at for review. Ms. Lilly agreed and stated that she would just like to have control over the signage that her tenants were putting up. Chair Spann stated that Ms. Lilly was actually looking for the Board to set a maximum of square footage. Ms. Lilly's concern is that the shopping center does not face the street and in order to get the customers into the shopping center, you have to make sure the signage is seen.

Ed Davis made a motion to approve the variance application for additional wall signage at the Southside Shopping Center, owned by Larry and Teesa Lilly, in that the total signage of all of the stores cannot exceed 384 square feet, with no one unit to occupy more than thirty-two (32) square feet, plus each unit is allowed a three (3) square foot identification sign below the awning, because the location of the shopping center as it faces away from 12th Street, and that it does adversely affect the public health, safety, or welfare, nor would it alter the essential character of the general facility, it would not cause a hazard or

nuisance to the public, nor would it allow any unreasonable circumvention of the requirements of the zoning regulations. Andy Dunn seconded the motion and it carried with a 4-0 vote.

Review of Conditional Use Permit – Gray’s Flea Market – 609 S. 4th Street: Mr. Mastera explained that one of the conditions set forth in Gray’s Flea Market’s Conditional Use Permit is that a fence is to be constructed in conjunction with the Planning staff along the front building line. Another part of the motion that was made in February included that Mr. Gray be granted permission for two storage containers in the rear of his business to store merchandise for a limited period of 24 months. Mr. Mastera noted that he recently followed up with Mr. Gray inquiring about the progress of the fence being constructed. Mr. Gray indicated that he understood that the fence was to be put up only if the storage containers were put behind his business. The storage containers have yet to be put behind his business. In the previous meetings the storage of the merchandise to the rear of the business was the primary discussion. The question attempting to be answered is, since Mr. Gray did not put up the storage containers, does this mean that he does not have to put up the fence along his front building line.

Chair Spann swore in Mr. John Gray, 609 S. 4th Street. Mr. Gray explained that it was interpretation of the ruling that the fence did not have to be erected until the storage containers were brought to his property. At the present time, there are no containers; therefore, he has not put in a fence. Mr. Seiber acknowledged that it was a mistake on the part of the BZA requiring Mr. Gray to place a fence along the front property line and that it was not accomplishing much.

Mr. Gray asked for clarification of his Conditional Use Permitt. Mr. Gray also asked about the regulations for having containers in the City. Ms. Dowdy stated that the Board had made an interpretation a few years back that semi-tractor trailers were not considered an accessory structure for storage purposes but nothing has been set in regards to containers. After more discussion, the Board decided that as long as the other conditions were being met, Mr. Gray would not have to erect a fence.

Ed Davis made a motion to amend the Conditional Use Permit for Gray’s Flea Market to eliminate the construction of the fence. Scott Seiber seconded the motion and it carried with a 4-0 vote. Mr. Mastera noted that Gray’s Flea Market will be reviewed in February 2009.

Ed Davis moved to adjourn. Andy Dunn seconded the motion and it carried with a 4-0 voice vote. The meeting adjourned at 6:20 p.m.